# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

SAMIR GADELKARIM	)
Claimant	)
VS.	)
	) Docket No. 199,449
ATLAS VAN LINES	)
Respondent	)
AND	)
	)
LEGION INSURANCE COMPANY	)
Insurance Carrier	)

## ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge John D. Clark on February 4, 1999. The Order required respondent to provide a list of three physicians from which claimant is allowed to choose one as a treating physician. The Order also provided for temporary total disability benefits if the claimant is taken off work.

#### ISSUES

This case involves a post-award application for medical benefits. Procedurally, the case is brought as an application for a preliminary hearing.

The original Award in this case granted benefits for bilateral upper extremity problems. That Award is currently pending on appeal before the Kansas Court of Appeals. The issue raised by the appeal to this Board is whether claimant's current need for medical treatment arises from his employment with respondent Atlas Van Lines or whether, instead, it results from a new intervening injury in claimant's subsequent employment.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes that the Order should be affirmed.

Claimant seeks medical treatment for continuing bilateral upper extremity symptoms. The record shows claimant last worked for respondent on February 24, 1995,

and has worked for several employers since that time. In the work for Atlas Van Lines, claimant's duties included lifting involved in loading and unloading. The evidence in the case in chief indicated that that lifting activity was the cause of the injury. In subsequent employment claimant has not engaged in lifting. Claimant also testifies that his condition persisted during an approximate ten-month period when he was not working.

Respondent argues that the current symptoms may be caused by repetitive grasping and gripping onto a steering wheel while driving for subsequent employers. The Board notes that claimant has been restricted against repetitive grabbing and grasping. From the current state of the record, it seems possible that the driving may rise to the level of a new and independent injury. But, the record does not show whether the restriction by Dr. Paul D. Lesko would apply to the activity of driving. In general, the evidence does not show that the driving is the reason claimant needs medical treatment.

The Board finds that the current state of the evidence, principally claimant's testimony, reflects that more probably than not the current need for medical treatment is a natural and probable consequence of the original compensable injury, not a new intervening and superseding accidental injury.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge John D. Clark on February 4, 1999, should be, and the same is hereby, affirmed.

#### IT IS SO ORDERED.

Dated this day of March 1999.

## BOARD MEMBER

c: Dale V. Slape, Wichita, KS

Terry J. Torline, Wichita, KS

John D. Clark, Administrative Law Judge

Philip S. Harness, Director